

A 77.325

## United States Department of Agriculture

### FOOD AND DRUG ADMINISTRATION

## NOTICES OF JUDGMENT UNDER THE INSECTICIDE ACT

[Given pursuant to section 4 of the insecticide act]

1211-1215

[Approved by the Secretary of Agriculture, Washington, D. C., January, 11, 1932]

**1211. Adulteration and misbranding of No-Bac-T. U. S. v. 36 Jugs of No-Bac-T. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1547. S. No. 241.)**

Examination of samples of No-Bac-T, a product intended for use in the control of fungi (bacteria), showed that the article contained a larger proportion of inert ingredients and a smaller proportion of active ingredients than declared on the label. The labels also represented that the article was nonpoisonous, that it possessed a phenol coefficient of 10 and would sterilize and disinfect, whereas it was not nonpoisonous, it did not possess a phenol coefficient of 10, and would not sterilize and disinfect as claimed.

On June 25, 1931, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of thirty-six 1-gallon jugs of the said No-Bac-T. It was alleged in the libel that the article had been shipped on or about March 9, 1931, by M. L. Shepard, from Wilmington, N. C., into the State of Virginia, and that having been so transported it remained unsold in the original unbroken packages at Petersburg, Va., and that it was an adulterated and misbranded fungicide within the meaning of the insecticide act of 1910.

Adulteration of the article was alleged in the libel for the reason that the statements, to wit, "Inert Water 85%, Active 15%," borne on the label affixed to the jugs and cartons containing the said article, represented that its standard and quality were such that it contained inert ingredients, i. e., substances that do not prevent, destroy, repel, or mitigate fungi (bacteria), in the proportion of not more than 85 per cent; and contained active ingredients, i. e., substances that do prevent, destroy, repel, or mitigate fungi (bacteria), in the proportion of not less than 15 per cent, whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, in that it contained inert ingredients in a proportion greater than 85 per cent and active ingredients in a proportion less than 15 per cent.

Misbranding was alleged for the reason that the statements, "Inert Water 85%, Active 15% \* \* \* A non-poisonous preparation \* \* \* for \* \* \* sterilizing, \* \* \* and disinfecting milk utensils, milking machines, separators, etc. \* \* \* Directions: One to two ounces to one gallon of water for ordinary purposes. \* \* \* Phenol Co-efficiency, 10%. \* \* \* should be used in taking retained afterbirths which will prevent blood poison," borne on the jug and carton labels, were false and misleading; and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, in that they represented that the said article contained not more than 85 per cent of inert ingredients and not less than 15 per cent of active ingredients, that it was nonpoisonous, that it possessed a phenol coefficient of 10 and that when used as directed it would sterilize, would act as a disinfectant, and would prevent blood poisoning in cows; whereas the said article contained more than 85 per cent of inert ingredients, and contained less than 15 per cent

of active ingredients, it was not nonpoisonous, it did not possess a phenol coefficient of 10, and when used as directed it would not sterilize, would not act as a disinfectant, and would not prevent blood poisoning in cows.

On September 22, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**1212. Misbranding of Cedaflaxe. U. S. v. 6 Boxes of Cedaflaxe. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1550. S. No. 242.)**

The labels of the product Cedaflaxe represented that the article would be effective against moths and would expel and drive out moths, whereas examination showed that it would not be effective for such purposes when used as directed. Examination showed further that the labels failed to declare the name and percentage of the inert ingredients present in the article in manner provided by law.

On July 24, 1931, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 6 boxes, each containing 42 bags of Cedaflaxe. It was alleged in the libel that the article had been shipped on or about May 4, 1931, by the R. Flint Corporation, from Brooklyn, N. Y., into the State of Maryland, that having been so transported it remained unsold in the original unbroken packages at Baltimore, Md., and that it was a misbranded insecticide within the meaning of the insecticide act of 1910.

Misbranding of the article was alleged in the libel for the reason that the statements, "Cedaflaxe Xpels Moths Made from real Aromatic Cedar Wood specially treated to insure full insecticidal value. \* \* \* Drives out moths. Directions For Use. 1. Hang bags in each corner of closet. 2. Keep door of closet closed when not in use. 3. Replace with new Cedaflaxe periodically. New Cedaflaxe costs less than new clothes," borne on the label affixed to the bags containing the article, were false and misleading, and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the said article when used as directed, would be effective against moths and would expel and drive out moths, whereas it would not be effective for the said purposes when used as directed.

Misbranding was alleged for the further reason that the article consisted partially of inert substances, to wit, substances other than naphthalene and cedar oil, that is to say, substances that do not prevent, destroy, repel, or mitigate insects (moths), and the name and percentage amount of each and every one of the said inert substances so present in the article were not stated plainly and correctly on the label affixed to the bags containing the article; nor, in lieu thereof, were the name and the percentage amount of each and every one of the substances or ingredients of the article having insecticidal properties, and the total percentage of the inert substances present in the article, stated plainly and correctly on the said label.

On September 14, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**1213. Misbranding of Odora Peaks. U. S. v. 16 Dozen Packages of Odora Peaks. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1548. S. No. 240.)**

The labels of the product, Odora Peaks, contained statements representing that it was effective in destroying moths, roaches, and certain other insects and in removing objectionable odors by means of vapors produced from certain volatile oils contained in the article, whereas examination showed that it would not be effective for the purposes claimed when used as directed.

On July 1, 1931, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 16 dozen packages, each containing six Odora Peaks. It was alleged in the libel that the article had been shipped by the Odora Co. (Inc.),

from New York, N. Y., on or about June 1, 1931, to Newark, N. J., that having been so transported it remained unsold in the original unbroken packages at Newark, N. J., and that it was a misbranded insecticide within the meaning of the insecticide act of 1910.

Misbranding of the article was alleged in the libel for the reason that the statements, to wit, "Odora Peak Deodorant and Moth Destroyer \* \* \* Most efficient moth destroyer, destroys roaches, insects, etc. \* \* \* Removes objectionable odors in bathrooms, basements, closets, etc.," borne on the label affixed to each of the said peaks, were false and misleading; and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the article when used as directed, would be effective against moths, roaches, and all insects, and would remove objectionable odors in bathrooms, basements, closets, etc.; whereas the said article when used as directed, would not be effective against moths, roaches, and all insects, and would not remove objectionable odors in bathrooms, basements, closets, etc.

On July 29, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**1214. Adulteration and misbranding of Sulpho-Tobacco plant and animal soap. U. S. v. 1½ Gross Bars of Sulpho-Tobacco Plant and Animal Soap. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 1539. S. No. 232.)**

Examination of samples of Sulpho-Tobacco plant and animal soap showed that the article contained less soap, nicotine, and sulphur than declared on the label.

On March 30, 1931, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 1½ gross bars of the said Sulpho-Tobacco plant and animal soap. It was alleged in the libel that the article had been shipped on or about January 24, 1929, by the Larkin Co. (Inc.), from Buffalo, N. Y., into the State of Missouri, that having been so transported it remained in the original unbroken packages at St. Louis, Mo., and that it was an adulterated and misbranded insecticide within the meaning of the insecticide act of 1910.

Adulteration of the article was alleged in the libel for the reason that the statements, "Soap 87.5%, Nicotine ( $C_{10}H_{14}N_2$ ) 0.5%, Sulphur (S) 1.0%," borne on the label affixed to the cartons containing the article, represented that its standard and quality were such that it contained not less than 87.5 per cent of soap, not less than 0.5 per cent of nicotine, and not less than 1 per cent of sulphur; whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, in that it contained less soap, nicotine, and sulphur than so declared.

Misbranding was alleged for the reason that the above-quoted statements appearing on the carton label were false and misleading, and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the said article contained not less than 87.5 per cent of soap, not less than 0.5 per cent of nicotine, and not less than 1 per cent of sulphur; whereas the article contained less soap, nicotine, and sulphur than so represented.

On June 30, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**1215. Misbranding of Mag-O-Tite. U. S. v. Interstate Chemical Co. Plea of guilty. Fine, \$75. (I. & F. No. 1535. Dom. No. 05882.)**

Examination of the product Mag-O-Tite showed that the labels represented that the article was effective in the control of maggots which infest certain vegetables, whereas it was not; also that the label failed to declare the inert ingredients in manner provided by law.

On May 7, 1931, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the

Interstate Chemical Co., a corporation, Jersey City, N. J., alleging shipment by said company, in violation of the insecticide act of 1910, on or about February 21, 1929, from the State of New Jersey into the State of Massachusetts, of a quantity of Mag-O Tite which was misbranded.

It was alleged in the information that the article was misbranded in that the statements, to wit, "Mag-O-Tite found by many users to be helpful in the control of Root Maggot on Cabbage, Brussels Sprouts, Cauliflower, Kale, Radishes, Onions, Broccoli, Turnips, Rutabaga," borne on the label affixed to the packages containing the article, represented that the said article, when used as directed, would be helpful in the control of root maggots that infest or attack cabbages, Brussels sprouts, cauliflower, kale, radishes, onions, broccoli, turnips, and rutabaga, whereas it would not.

Misbranding was alleged for the further reason that the article consisted partially of inert substances or ingredients, to wit, substances other than naphthalene and lead arsenate, and the name and percentage amount of each and every inert substance so present therein were not stated plainly and correctly on the label affixed to the packages containing the article; nor, in lieu thereof, were the name and percentage amount of each substance or ingredient of the article having insecticidal properties, and the total percentage of the inert substances or ingredients present in the article, stated plainly and correctly on the label.

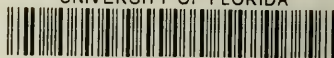
On May 22, 1931, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$75.

ARTHUR M. HYDE, *Secretary of Agriculture.*

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